

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4121 of 2009

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Nand Kishore Prasad, son of Late Bhola Prasad, Resident of Amarpura, P.O.-
Makdampur, P.S.-Makdampur, District- Jehanabad.

.... Petitioner

Versus

1. The Bihar State Electricity Board, Patna through its Secretary.
2. The Chairman, Bihar State Electricity Board, Bailey Road, Patna.
3. The Secretary, Bihar State Electricity Board, Bailey Road, Patna.
4. The Joint Secretary, Bihar State Electricity Board, General Administration
Department, Patna.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Kamla Lal Srivastava, Advocate
Mr. Mani Madhukar, Advocate

For the Respondent/s : Mr. Anand Kumar Ojha, Standing Counsel.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-01-2018

Heard learned counsel for the petitioner and learned
counsel for the Electricity Board.

2. In this case, the petitioner is challenging the memo no.283 dated 17.03.2005 (Annexure-6), whereby certain punishment has been inflicted upon the petitioner as well as order dated 14.11.2007 (Annexure-9), by which the appeal filed by the petitioner has been dismissed by the appellate authority.

3. This petition can be disposed of on a very short point



that the disciplinary authority has not followed the proper procedure as has been delineated in *Punjab National Bank and Ors. vs. Kunj Bihari Mishra*, reported in *1998(7) S.C.C. 84*, there the Hon'ble Supreme Court dealing with the same situation has held that, in case of difference of opinion by the Disciplinary Authority with the finding of the Inquiry Officer, the proper procedure, will record disagreement separately, would serve upon the delinquent and after receipt of the explanation, suitable order would be passed by the disciplinary authority. But, in the present case, the enquiry report is in favour of the petitioner and without following the procedure as aforesaid, the disciplinary authority has passed the order of the punishment, he will not be entitled to salary during the suspension period except what is paid as subsistence allowance, stoppage of one increment with cumulative effect and senior for the future. At the same time, the appellate authority has also passed very cryptic order without dealing with the points which have been taken by the petitioner.

4. In such view of the matter, the order containing memo no.283 dated 17.03.2005 (Annexure-6) as well as the order of the appellate authority dated 14.11.2007 (Annexure-9) are quashed. The matter is remanded back to the respondents, if they so like, may take



steps in accordance with law.

5. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	17.01.2018
Transmission Date	N/A.

